

CITY COUNCIL AGENDA

APRIL 6, 2004

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:31 a.m. - Closed Session, Room 600, City Hall
Absent Council Members: None.

1:36 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:06 p.m. - Public Hearings, Council Chambers, City Hall
General Plan Hearings, Council Chambers, City Hall
Absent Council Members: Chavez. (Excused)

- **Invocation (District 4)**

Father Steven Brown, Star of the Sea Church, recited a prayer of remembrance of our neighbors with different faiths, and the power of leadership for the common good.

- **Pledge of Allegiance**

Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved.

Mayor Gonzales welcomed the students from Saint Leo School.

1 CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring the month of April, “Month of the Young Child.” (Chirco)
Mayor Gonzales was joined at the podium by Council Member Chirco; and Lisa Giannotti, who serves on the Month of the Young Child Steering Committee, and Joann Douglas, Chairperson, were invited to the podium. Council Member Chirco remarked that this month’s attention is drawn to the future of the community by honoring the youngest residents of San José. Council Member Chirco commented that quality early care and education for children are fundamental elements of the economic stability of the San José community, and proclaimed April 2004 as the “Month of the Young Child”, reaffirming a continuing commitment to ensure the health, welfare, safety, and education of our youngest residents through effective community programs and services that support families with young children. Mayor Gonzales presented a plaque, on behalf the City Council, to Ms. Giannotti and the Steering Committee for their efforts. Ms. Giannotti thanked Mayor Gonzales and the Council Members, mentioning that the Children’s Fair is being held at Discovery Park on Saturday, April 17, 2004, 1:00-4:00 p.m.
- 1.2** Presentation of a proclamation declaring the week of April 4-10, 2004 as “Building Safety Week.” (Planning, Building and Code Enforcement)
Mayor Gonzales was joined at the podium by Joe Horwedel, the Deputy Director of Planning, Building and Code Enforcement, and Director of Public Works Katy Allen. Fire Chief Jeff Clet could not be present. Mayor Gonzales remarked the City of San José is declaring the week of April 4-10, 2004 as “Building Safety Week”, and commented that building safety is the result of high standards, good design, consistent application and enforcement, and community support to protect both current and future residents of San José. Mayor Gonzales remarked that safer buildings depend on comprehensive solutions, and preventative measures that effectively address fire safety, structural integrity, seismic stability, and the public health issues in a wide variety of settings. Mayor Gonzales added the City of San José is committed to increasing public awareness and highlighted the importance of building safety to continue to make San José a safe place for residents, employees, and visitors. Mayor Gonzales, on behalf of the City Council, presented a plaque to Mr. Horwedel, and Ms. Allen, and encouraged all residents, businesses, and community organizations to learn more about the issues, challenges and benefits associated with providing a safe, and habitable environment for everyone in the community. Ms. Allen invited everyone to visit the Building Safety exhibit this week, located in City Hall.
- 1.3** Administer Oath of Office to District 6 Youth Commissioner, Emily Hopper. (Mayor)
Heard in the evening.
Mayor Gonzales invited Council Member Yeager to introduce the District 6 Youth Commissioner, Emily Hopper. Mayor Gonzales invited Acting City Clerk Deanna J. Santana to the podium to administer the Oath of Office to Ms. Hopper. Mayor Gonzales congratulated Ms. Hopper on behalf of the City Council.

1 CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to Captain Dave Churchill of the City of San José Fire Department for his dedication and perseverance in rescuing a three year old boy in Boulder Creek. (Mayor)

(Rules in Lieu referral 4/1/04)

Heard in the evening.

Mayor Gonzales invited Fire Captain Dave Churchill, and Geoff, Shonti, and Aidan Burke to the podium. Mayor Gonzales remarked that Fire Captain Churchill has served the Fire Department in the City of San José since 1986, and has earned the respect of his colleagues by demonstrating genuine leadership in many capacities including his contributions to Emergency Medical Dispatch, EMT Field Coordinator and Instructor, Paramedic Services, Local 230 Ship Representative, Public Education, Fire Prevention, and teaching at the City's Recruit Academies. Mayor Gonzales added Captain Churchill's dedication to serving and protecting the people of the community extends well beyond the borders of San José as shown by his off duty diligence as a skilled and willing volunteer in locating missing 3 year old Aidan Burke in Boulder Creek, who had been lost for over 24 hours on Thursday, March 25, 2004. Mayor Gonzales on behalf of the City Council, and the Burke Family, recognized and commended Captain Dave Churchill for his dedication to protect and serve the residents of San José and the neighboring cities, and for his skill, compassion and service beyond the call of duty. Captain Churchill thanked Mayor Gonzales, and the City Council, and expressed his joy to the Burke Family for the recovery of their son. Ms. Shonti Burke expressed her appreciation, and gratitude to Captain Churchill, and presented him with a "tree of life" from the Burke Family Grandparents.

- 1.5 Presentation of a commendation to the 341st Military Police Army Reserve Company based in San José. (Dando)

(Orders of the Day)

Heard in the evening.

Mayor Gonzales invited Vice Mayor Dando, and Council Member Reed to the podium. Vice Mayor Dando invited Lieutenant Colonel Ruiz, Lieutenant Smith, and Debbie Katsounakis, mother of Nick Katsounakis, who is currently serving in Iraq, to the podium. Vice Mayor Dando mentioned a nonprofit organization established in 1968, called "America Supporting Americans" is for citizens supporting the people serving the United States, and the 341st Military Police Army Reserve Company requested that their home base of the City of San José, adopt them. Vice Mayor Dando added those soldiers include officers from the San José Police Department, Officer Sergeant Francis Keffer, and Officer Jose Frank Montoya, and that the company has been deployed since the beginning of the war in Iraq. Vice Mayor Dando remarked that the City of San José appreciates their service to our country, and hope they come home soon. Mayor Gonzales, on behalf of Vice Mayor Dando, Council Member Reed, and the City Council, acknowledged all of the members of the 341st Military Police Army Reserve for their dedication and service to our nation, and community as they defend America and work towards peace. Lieutenant Colonel Ruiz, and Ms. Katsounakis thanked Mayor Gonzales, the City Council, and the City of San José for their support.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27103 – Amends Section 4.01.010 of Chapter 4.01, and amends Sections 4.04.010 and 4.04.020 of Chapter 4.04 of the San José Municipal Code to increase the authority of the City Manager to accept donations and to approve sponsorship agreements in order to implement the City’s Revenue Generating Policy.

Ordinance No. 27103 adopted.

2.3 Approval of an agreement for legal services for the Police and Fire Retirement Plan.

Recommendation: Adoption of a resolution authorizing the City Attorney to execute a legal services agreement with Nossaman Guthner Knox & Elliott LLP, for a total compensation not to exceed \$200,000. CEQA: Not a Project. (Boards of Administration for the Police & Fire Department Retirement Plan)

Resolution No. 72026 adopted.

2.4 Approval of fiscal actions and status report on the Hayes Mansion.

Recommendation:

- (a) Acceptance of the status report on the Hayes Mansion.

Report Accepted.

- (b) Adoption of the following appropriation ordinance amendments in the Community Facilities Revenue Fund:

- (1) Decrease the Reserve for Hayes Capital Improvements by \$151,164;
- (2) Establish an appropriation for Hayes Mansion Repair and Capital Improvements in the amount of \$151,164.

CEQA: Not a Project. (City Manager’s Office/Finance)

Ordinance No. 27108 adopted.

2 CONSENT CALENDAR

2.5 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.

Recommendation:

- (a) Approval of award of open purchase order for landscaping maintenance services to Coast Landscaping Management, Inc., in the amount of \$520,400, and authorization for the Director of General Services to execute the purchase order. (General Services)
(Deferred from 3/30/04 - Item 2.6)
- (b) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #18, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

Approved.

2.6 Approval to grant an easement to the Santa Clara Valley Water District.

Recommendation: Adoption of a resolution granting an easement to the Santa Clara Valley Water District (SCVWD) over a portion of the future Cilker Park for the purpose of providing ingress and egress to the adjacent percolation pond, and delegating authority to the Director of General Services to execute all documents necessary to complete transfer of the Easement. CEQA: Mitigated Negative Declaration, PP03-03092. Council District 9. (General Services)

Resolution No. 72027 adopted.

2.7 Approval of agreements for software maintenance and upgrade services for the Citywide Financial Management System.

Recommendation: Adoption of a resolution authorizing the City Manager to execute:

- (a) An agreement between the City of San José and Cayenta Canada, Inc., for software maintenance and upgrade services on the Citywide Financial Management System in the amount of \$64,140, and the first year of support and maintenance agreement for Cayenta Financials Version 7 and Actuate eReporting Bundle in the amount of \$43,214 and \$11,457 respectively, for a total first year cost of \$118,811; and
- (b) Renewals of these agreements for maintenance services and enhancements without further City Council approval other than the appropriation of funding.

CEQA: Not a Project. (Information Technology/Finance)

Resolution No. 72028 adopted.

2 CONSENT CALENDAR

2.8 Approval of actions related to the Selma Olinder Park Project.

Recommendation: Adoption of the following appropriation ordinance and funding sources resolution amendments in Council District 3 Construction and Conveyance Tax Fund to:

- (a) Establish the Selma Olinder Park Project for \$100,000, appropriated to the Parks, Recreation and Neighborhood Services Department.
- (b) Increase the Grant Earned Revenue estimate by \$80,000.
- (c) Decrease the ending fund balance by \$20,000.

CEQA: Negative Declaration, PP00-10-147. Council District 3. SNI: Five Wounds. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 27109 adopted.

Resolution No. 72029 adopted.

2.9 Approval of actions related to the Avenida Espana Park Project.

Recommendation: Adoption of the following appropriation ordinance amendments in the Council District 2 Construction and Conveyance Tax Fund:

- (a) Establish the Avenida Espana Park Project for \$30,000 to the Parks, Recreation and Neighborhood Services Department; and
- (b) Decrease the Ending Fund Balance by \$30,000.

CEQA: Exempt, PP04-03-060. Council District 2. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 27110 adopted.

2.10 Approval of amendments to the Parkland Agreement for the Moitozo Ranch development.

Recommendation: Approval of the first and second amendments to the Parkland Agreement with the Irvine Company Moitozo Ranch Planned Development Rezoning No. PDC99-04-034 for additional private recreation credits. CEQA: Resolution No. 67894. Council District 4. (Parks, Recreation and Neighborhood Services)

Approved.

2.11 Approval of actions related to a Historic landmark initiation.

Recommendation: Adoption of a resolution to:

- (a) Initiate proceedings to consider the Wilder-Hait House as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature.
- (b) Set a public hearing on June 1, 2004, at 1:30 p.m.
- (c) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report, and recommendation.

CEQA: Exempt, File No. HL04-150. Council District 6. (Planning, Building and Code Enforcement)

Resolution No. 72030 adopted.

2 CONSENT CALENDAR

2.12 Approval of procedures to establish Conservation Areas and related fees.

Recommendation:

- (a) Approval of an ordinance amending Part 2, Chapter 13.48 of Title 13 of the San José Municipal Code to provide procedures for the establishment of Conservation Areas; and
- (b) Adoption of a resolution amending the Schedule of Fees and Charges to establish a \$700 fee for Conservation Area designation applications.

CEQA: Exempt, PP04-02-054. (Planning, Building and Code Enforcement)

Item 2.12 was renumbered to 4.10.

Heard in the evening.

2.13 Approval to accept the 2003-2005 Seat Belt Compliance Grant.

Recommendation:

- (a) Adoption of a resolution to accept the State of California, Office of Traffic Safety (OTS) 2003-05 Seat Belt Compliance grant in the amount of \$99,714, and authorize the City Manager to execute the related grant agreement.

Resolution No. 72031 adopted.

- (b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the General Fund (Fund 001) for Fiscal Year 2003-04:

- (1) Increase the City-wide OTS 2003-05 Seat Belt Compliance grant appropriation for the Police Department in the amount of \$48,731;
- (2) Increase Earned Revenue Estimate from the State by \$48,731.

CEQA: Not a Project. (Police/City Manager's Office)

Ordinance No. 27111 adopted.

Resolution No. 72032 adopted.

2.14 Approval to award a contract for street lights for the Lenzen-Keeble and White Road Project.

Recommendation: Report on bids and award of contract for street lights for the Lenzen-Keeble and White Road Project to the low bidder, San José Signal Electric Construction Inc., in the amount of \$144,745, and approval of a contingency in the amount of \$14,475.

CEQA: Exempt, PP01-02-023. Council Districts 5 and 6. (Public Works)

Approved.

2 CONSENT CALENDAR

2.15 Approval to award a contract for the Lower Silver Creek Sanitary Sewer Realignment Project.

Recommendation: Report on bids and award of contract for the Lower Silver Creek Sanitary Sewer Realignment Project to the low bidder, K. J. Woods Construction, Inc., in the amount of \$614,000, and approval of a contingency in the amount of \$61,400. CEQA: Exempt, PP03-09-287. Council District 5. SNI: Mayfair. (Public Works)

Approved.

2.16 Approval to award a contract for the Plata Arroyo Park Skate Facility Project.

Recommendation:

(a) Report on bids and award of contract for the Plata Arroyo Park Skate Facility Project to the lowest responsive bidder, Robert A. Bothman, Inc., to include the base bid and Add Alternate Nos. 2 and 3 in the amount of \$408,461, and approval of a contingency in the amount of \$38,000.

(b) Adoption of the following appropriation ordinance amendments in the Park Trust Fund:

- (1) Increase the Plata Arroyo Park Skate Facility Project by \$108,000;
- (2) Decrease the Plata Arroyo Park Improvements Project by \$102,000;
- (3) Decrease the Reserve for Future PDO/PIO Projects by \$6,000.

CEQA: Exempt, PP03-08-251. Council District 5. SNI: Gateway East. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Deferred to 4/13/04.

2.17 Approval of an agreement for the completion of the Light Rail Transit Corridors (1996 Measure B).

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara Valley Transportation Authority for the assignment of operation and maintenance responsibilities associated with the completion of the Light Rail Transit Corridors (1996 Measure B). CEQA: Not a Project. Council Districts 3, 4, 5, and 6. SNI: Park/Delmas, East Valley/680. (Transportation)

Resolution No. 72033 adopted.

2.18 Approval of an agreement with Shaw Pittman LLP, for specialized legal services.

Recommendation: Adoption of a resolution authorizing the City Attorney to negotiate and execute a second amendment to the agreement for specialized legal services with the law firm of Shaw Pittman, LLP, to increase the compensation by \$65,000, to a total amount not to exceed \$150,000, and to extend the term through June 30, 2005. (City Attorney's Office)

(Rules in Lieu referral 4/1/04)

Resolution No. 72034 adopted.

2 CONSENT CALENDAR

2.19 Approval of appointments to the Silicon Valley Workforce Investment Network (WIN) Board.

Recommendation: Approval of appointments to the Silicon Valley Workforce Investment Network (WIN) Board. (Mayor)
(Rules in Lieu referral 4/1/04)
Approved.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

3.2 Report of the Rules Committee – March 24, 2004 Vice Mayor Dando, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review April 6, 2004 Draft Agenda

The Committee recommended approval of the April 6, 2004 City Council agenda with one change and three additions.

(2) Add New Items to March 30, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended two additions to the March 30, 2004 City Council agenda.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report stating there are three staff reports outstanding for the March 30, 2004 Council agenda.

(c) Legislative Update

(1) State

There was no report.

(2) Federal

There was no report.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – March 24, 2004 (Cont'd.)

Vice Mayor Dando, Chair

- (d) Meeting Schedules
 - (1) Request to Schedule Airport Study Session
The Committee recommended scheduling an Airport Study Session on April 12, 2004, 1:00-4:00 p.m., to be held at the Airport Administrative Offices, 1732 N. First Street, 4th Floor, Large Conference Room.
- (e) The Public Record
There was no Public Record filed.
- (f) Appointment to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) City Manager's written report on the San José Family Camp Manager hiring process
The Committee accepted Director Hensley's report.
 - (2) Request to initiate a street renaming of West Virginia Street, west of Interstate 280 to its terminus at Hannah Street, to Hannah Court
The Committee directed Administration to place this issue on the Planning Commission's agenda at the earliest possible date.
 - (3) Request to place an audit of the Family Camp Program on the City Auditor's FY 2005-06 work plan
The Committee referred the Family Camp Program audit request to the City Auditor, who will return on April 7, 2004 with information on incorporating this audit into his work plan.
- (h) Oral communications
None were presented.
- (i) Adjournment
The meeting was adjourned at 2:40 p.m.

The Rules Committee Report and the Actions of March 24, 2004, were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Campos, Chair

No Report.

3 STRATEGIC SUPPORT SERVICES

3.4 Approval of actions related to the March 2, 2004 and November 2, 2004 Elections.

Recommendation: Adoption of a resolution:

- (a) Declaring results of the March 2, 2004 Municipal Election pursuant to Elections Code Section 15400; and,
- (b) Calling for a Run-Off Election to be held November 2, 2004, setting a deadline of August 3, 2004 for ballot measures to be added to the ballot, and authorizing the City Clerk to take such actions necessary to facilitate the Election.

(Acting City Clerk)

(Deferred from 3/23/04 – Item 3.4 and 3/30/04 – Item 3.7)

Resolution No. 72035 adopted.

3.5 Public Hearing on the cost of sidewalk repairs for Sharon L. McDonald, Property Owner.

Recommendation: PUBLIC HEARING for property owner Sharon L. McDonald and adoption of a resolution confirming the report of the Directors of Finance and Transportation on the cost of sidewalk repairs, confirming the assessments contained in the report, and directing the recording of liens. CEQA: Not a Project. (Finance/Transportation)

(Deferred from 3/30/04 - Item 3.4)

Item 3.5 was deferred.

3.6 Adoption of a resolution supporting the reappointment of Dolores Huerta to the University of California Board of Regents.

Recommendation: Adoption of a resolution supporting the reappointment of Dolores Huerta to the University of California Board of Regents. (Cortese, Chavez, Campos; Mayor)

(Rules in Lieu referral 4/1/04)

Resolution No. 72036 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair No Report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – March 22, 2004 Council Member Williams, Chair

- (a) Status of the top four Economic Development Strategy Initiatives
The Committee accepted the Staff report.
- (b) Update and next steps for the North San José Development Policy Revision
The Committee accepted the Staff report.
- (c) Report and discussion on secondary units
The Committee accepted the Staff report.
See Item 4.3 for Council Action taken.
- (d) Oral petitions
Speaking on Secondary Housing Units were, Joanne Stone, Almaden Valley resident, Scott Soper, College Park neighborhood, Phyllis Ward, Affordable Housing Network, Stan Davis, Willow Glen resident, and George Stone, Almaden Valley resident.
- (e) Adjournment
The meeting was adjourned at 3:22 p.m.

The Driving a Strong Economy Committee Report and the Actions of March 22, 2004, were accepted.

4.3 Approval to draft parameters for a second unit ordinance.

Recommendation: Direction to the City Attorney to draft an ordinance in accordance with parameters set by the City Council for a second unit ordinance. (Housing/Planning, Building and Code Enforcement)

[Driving a Strong Economy Committee referral 3/22/04 – Item 4.2(c)]

Staff directed to conduct community outreach prior to drafting a proposed ordinance, allowing up to two public meetings per Council District, including Neighborhood Action Committees (NAC), and for purposes of reconciling the following, was directed to:

- (1) **Look at existing units currently in the neighborhood, ensuring they are safe.**
- (2) **Establish the units that are family or work related in an expedited manner.**
- (3) **Establish how to enforce the owner occupied ordinance, including examples of other jurisdictions, their enforcements, and success rate.**
- (4) **Identify the parcels per District that appear to be appropriate for a secondary unit to be established.**
- (5) **Assess the number of existing legal or illegal units currently in San José, and establish a strategy, including an amnesty period for bringing those units into safe compliance for livability.**

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Approval of an ordinance amending the San José Municipal Code to provide for a preference in the award of contracts for local businesses and small businesses.

Recommendation: Approval of an ordinance amending the San José Municipal Code by adding a new Chapter 4.06 and amending Section 4.12.117, adding Section 4.12.118 to Chapter 4.12 and amending Sections 4.13.135 and 4.13.040 of Chapter 4.13 of Title 4 to establish contracting preferences for local and small businesses. (City Attorney's Office)

Deferred to 4/13/04.

4.5 Approval of actions related to Animal Services.

Recommendation:

(a) Adoption of appropriation ordinance and funding source resolution amendments in the General Fund as follows:

- (1) Establish an appropriation in the Department of Parks, Recreation and Neighborhood Services for the Animal Shelter Facility Expansion in the amount of \$1,000,000.
- (2) Increase the Estimate for Revenue from Local Agencies by \$1,000,000.

Ordinance No. 27112 adopted.

Resolution No. 72037 adopted.

(b) Adoption of a resolution authorizing the City Manager to negotiate and execute agreements for animal services with the cities of Cupertino, Los Gatos, and Saratoga in the following annual compensation for operating costs and one time capital contribution for a term of 20 years, commencing July 1, 2004, and subject to termination provisions:

- (1) Cupertino, \$166,000 per annum and \$500,000 capital;
- (2) Los Gatos, \$164,000 per annum and \$300,000 capital; and
- (3) Saratoga, \$155,000 per annum and \$300,000 capital.

CEQA: Negative Declaration, H01-003. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Resolution No. 72038 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.6 Approval of actions related to the acquisition of property located at 380 N. White Road.

Recommendation: Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of a portion of the property and a temporary construction easement over adjacent property located at 380 N. White Road (APN 599-01-057), owned by the Timothy Chen Revocable Trust;
- (b) Finding that:
 - (1) The property to be taken is necessary for the completion of the White Road Widening Project from Mabury Road to McKee Road;
 - (2) The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
 - (3) City staff established an amount of just compensation not less than the approved appraisal of the fair market value;
 - (4) City staff presented an offer to the owners for the full appraised amount; and
 - (5) The proposed taking and use are authorized by law;
- (c) Directing the City Attorney to file an eminent domain action to acquire the above property interests.

CEQA: Negative Declaration, PP03-11-355. Council District 5. (Public Works)

Resolution No. 72039 adopted

Staff directed to continue negotiations with the owner of the property.

4.7 Approval of actions for the Industrial Use Designation (Getting Families Back to Work Initiative).

Recommendation: Approval of an ordinance amending Section 4.46.050 of Chapter 4.46 of Title 4 of the San José Municipal Code to:

- (a) Clarify the industrial use designation for buildings or structures subject to collection of Building and Structure Construction Taxes;
- (b) Add certain industrial uses to the expanded list for the purpose of collecting Building and Structure Construction Taxes;
- (c) Clarify the procedures to collect taxes for building permits that are issued separately for building shell and the first tenant improvements.

CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

(Deferred from 3/30/04 – Item 4.5)

Deferred to 4/27/04.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.8 Approval of an agreement for the Coyote Valley Specific Plan, Design Guidelines, and Zoning Districts.

Recommendation:

- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:
 - (1) Increase the City-Wide appropriation for the Coyote Valley Specific Plan by \$2,000,000; and
 - (2) Increase the estimate for Other Revenue by \$2,000,000.
- (b) Take the following actions in regard to the preparation of the Coyote Valley Specific Plan:
 - (1) Approval of a consultant agreement with the Dahlin Group land planning and urban design team to prepare the Coyote Valley Specific Plan, Design Guidelines, and Zoning Districts for an amount not to exceed \$2,000,000.
 - (2) Delegate the authority to approve minor amendments to the consultant agreement to the Director of Planning, Building and Code Enforcement to account for increases in funding received from Coyote Housing Group, LLC and minor schedule or task changes that are necessary to conform to the City Council's Vision and Expected Outcomes for the Coyote Valley Specific Plan, and delegate to the Director the authority to extend the term of this agreement for up to 12 months to ensure the successful completion of this planning effort.

CEQA: Exemption, PP03-06-211. Council District 2. (Planning, Building and Code Enforcement)

(Deferred from 3/30/04 – Item 4.6)

Deferred to 4/13/04.

4.9 Review and discussion on Council Member memos regarding the Employment Lands Conversion Framework

Recommendation:

- (a) Review and discussion on the memorandum authored by Council Members David Cortese and Forrest Williams regarding the Employment Lands Conversion Framework; and
- (b) Review and discussion on the memorandum authored by Council Members Terry O. Gregory and Cindy Chavez regarding the Employment Lands Conversion Framework.

(Deferred from 3/30/04 - Item 4.7)

Approved.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.10 Approval of procedures to establish Conservation Areas and related fees.

Recommendation:

- (a) Approval of an ordinance amending Chapter 13.48 of Title 13 of the San José Municipal Code to provide procedures for the establishment of Conservation Areas; and

Ordinance No. 27113 passed for publication.

- (b) Adoption of a resolution amending the Schedule of Fees and Charges to establish a \$700 fee for Conservation Area designation applications.

CEQA: Exempt, PP04-02-054. (Planning, Building and Code Enforcement)

Item 4.10 was renumbered from 2.12. Heard in the evening.

Resolution No. 72044 adopted.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee

Council Member Yeager, Chair

No Report.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee

Council Member Cortese, Chair

No Report.

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

8.1 Approval of a concession agreement for a non-exclusive food and beverage operation in Terminal A at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a concession agreement with Host International, Inc., for a non-exclusive food and beverage operation in Terminal A at the Norman Y. Mineta San José International Airport, for the period July 1, 2004 to June 30, 2009, with guaranteed minimum revenues to the City in the amount of \$1,033,754, from the date that Host commences operations through the end of the term, or a percentage of gross sales, whichever is greater. CEQA: Resolution Nos. 67380 and 71451, PP04-03-068. (Airport)

Resolution No. 72040 adopted.

Noes: Cortese, Dando.

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report
No Report.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9507	South Michelango Drive, 100 ' west of Strata Circulara	8	Shappell Industries	49 units	SFD	Approve
9508	Southeast corner of Aborn Road and Voltaire Street	8	Shappell Industries	65 units	SFA	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

None.

- **Open Forum**
(1) Mark Trout spoke on the issue of same sex marriage.

- **Adjournment**

The Council of the City of San José adjourned from afternoon session at 4:53 p.m.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:06 p.m.)

11.1 Public Hearing on planned development rezoning of the property located at 1629 Alum Rock Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Alum Rock Avenue, approximately 200 feet southwesterly of 34th Street (1629 Alum Rock Avenue), from R-2 Two-Family Residence Zoning District and CG Commercial General Zoning District to A(PD) Planned Development Zoning District, to allow a radio station use on a 0.33 gross acre site. (Dolores M. Viera and S. Batista, Owner). CEQA: Exempt. SNI: Five Wounds/Brookwood Terrace.

PDC 03-090 - District 5

(Continued from 3/16/04 – Item 11.10)

Continued to 4/20/04.

11.2 Public Hearing on conforming rezoning of the property located at 2115 The Alameda.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the south side of The Alameda, approximately 90 feet westerly of Newhall Street (2115 The Alameda), from CO Commercial Office, CN Commercial Neighborhood, and R-1-8 Residence Zoning District to CP Commercial Pedestrian Zoning District, for commercial uses on a 1.14 gross acre site. (Care Access Silicon Valley, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-015 - District 6

Ordinance No. 27114 passed for publication.

11.3 Public Hearing on conforming rezoning of the property located at 3320 San Felipe Road.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the northeasterly side of San Felipe Road, approximately 450 feet southerly of Aborn Road (3320 San Felipe Road), from A Agricultural Zoning District to R-1-5 Residence Zoning District, to allow residential uses on a 1.7 gross acre site. CEQA: Use of San José 2020 General Plan Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-021 - District 8

Ordinance No. 27115 passed for publication.

Staff directed to advise the property owners that in order to discuss any development of property, the first step is becoming involved through the Evergreen Smart Growth Strategy Study Process.

12 GENERAL PLAN PUBLIC HEARINGS

12.1 Approval of General Plan Consent Calendar items.

- (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to General Commercial for property located on the southwest corner of West Hedding Street and Coleman Avenue (879 Coleman Avenue) on a 0.45-acre site. (Pinn Brothers, Inc., Owner/Pinn Brothers Construction, Inc., Applicant). CEQA: Mitigated Negative Declaration, GP03-03-18. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Platten Absent).

GP03-03-18 - District 3

[Deferred from 3/16/04 – Item 12.1(c)]

Staff/Planning Commission recommendation was tentatively approved.

12.2 Public Hearing on the following items located on the southwest corner of Oakland Road and Rock Avenue (1803 Oakland Road) on a 13.7-gross acre site.

Recommendations:

- (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium Density Residential (8-16 DU/AC) for property located on the southwest corner of Oakland Road (1803 Oakland Road) and Rock Avenue on a 13.7-acre site. (Orchard Property, LLC, Owners/Tom Armstrong, HMM, Applicant). CEQA: Resolution No. 04-017, GP03-04-01. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval with Preference for park on-site (5-2-0; Levy & Zito Opposed).

GP03-04-01 - District 4

(Continued from 4/15/03 - Item 1.5 and 11/18/03 - Item 1.2)

Staff/Planning Commission recommendation on General Plan Amendment 12.2(a) was tentatively approved. Noes: LeZotte, Yeager.

- (b) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 107 single-family detached residences on a 13.7-gross acre site, located on the southwest corner of Oakland Road (1803 Oakland Road) and Rock Avenue. (Orchard Property LLC, Owner; Summerhill Homes, Developer). CEQA: Resolution No. 04-017, PDC03-068. Director of Planning, Building and Code Enforcement recommends approval with one acre park on site with a frontage road and Planning Commission recommends approval as proposed by the applicant (4-2-1; Levy & Zito Opposed, James Absent).

PDC03-068 - District 4

[Continued from 3/16/04 – Item 12.2(a)(b)]

Ordinance No. 27115.1 passed for publication. Noes: LeZotte, Yeager.

CEQA Resolution No. 72045 adopted. Noes: LeZotte, Yeager.

12 GENERAL PLAN PUBLIC HEARINGS

12.3 Adoption of a resolution approving all General Plan amendment actions taken on March 16, 2004.

Recommendation: Adoption of a resolution approving all General Plan amendment actions taken on March 16, 2004. (Planning, Building and Code Enforcement)

(Continued from 3/16/04 – Item 12.4)

Resolution No.72046 adopted.

Encompasses items continued from March 16, 2004 General Plan Hearing to April 6, 2004. The General Plan Hearing of March 16, 2004 closed on April 6, 2004.

- **Open Forum**
(1) Isabel, Local 715, spoke of issues related to MACSA workers.

- **Adjournment**
The Council of the City of San José was adjourned at 8:11 p.m.

7 JOINT REDEVELOPMENT AGENCY/COUNCIL

The Council of the City of San José convened at 5:36 p.m. to hear Items 7.1, and 7.2 in a Joint Session with the Redevelopment Agency.

7.1 Approval of actions related to a lease with BTN Restaurant, LLC (dba Lee's Sandwiches), for City owned space located in the Fourth Street Garage and master leased to the Redevelopment Agency.

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the lease to BTN Restaurant, LLC (dba Lee's Sandwiches) of approximately 5,155 square feet of City owned ground floor retail space at 88 South Fourth Street that is master leased to the Redevelopment Agency, and making certain findings.

Resolution No. 72041 adopted.

- (b) Approval by the City Council and Redevelopment Agency Board of an amended and restated lease with BTN Restaurant, LLC, for the property located at 88 South Fourth Street, for approximately 5, 155 square feet of ground floor rental space.

Approved.

- (c) Adoption of a resolution by the City Council authorizing the City Manager to execute a Certificate of Nondisturbance and Attornment with BTN Restaurant, LLC, under the terms of the Master Lease between the City and the Agency.

CEQA: Exempt, PP03-12-396 [CIVIC PLAZA]

Resolution No. 72041 adopted.

7.2 Making certain determinations required by Redevelopment Law for the funding of Public Improvements in the form of streetscape work in the Spartan/Keyes SNI and award of a construction contract.

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for the funding of Public Improvements in the form of streetscape work in the Spartan/Keyes Strong Neighborhoods Initiative (SNI) project area; and,

Resolution No. 72043 adopted.

- (b) Adoption of a resolution by the Agency Board awarding the contract to True Green Land Care, the low bidder, in the amount of \$83,400, and establishing a contingency in the amount of \$8,340 for the Keyes Street Streetscape Improvement Project.

CEQA: Exempt, PP04-03-085 [SNI: SPARTAN/KEYES]

Redevelopment Agency Board Number adopted.

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 5:38 p.m.